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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000199

SIPDIS

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SUBJECT: ENGAGING SPAIN ON INFORMATION-SHARING AND DATA
PRIVACY ISSUES

REF: A. SECSTATE 08403

[1](#)B. MADRID 190

[1](#)C. MADRID 49

[1](#)D. 09 MADRID 1127

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Classified By: DCM Arnold A. Chacon for reasons 1.4(b) and (d)

[1](#)1. (C) SUMMARY AND COMMENT: Post, joined by visiting VIP delegations such as DHS Secretary Napolitano, CODEL Cardin, and the U.S. delegation to the US-EU Informal Senior Officials Meeting (SOM) on Justice and Home Affairs (JHA) issues, has engaged extensively with officials from the Ministries of Foreign Affairs, Interior and Justice on the importance of US-EU information-sharing on counter-terrorism and anti-crime initiatives while emphasizing the USG's adequate protection of personal data privacy. The Ambassador personally engaged 1st VP Fernandez de la Vega, Minister of Interior Rubalcaba, and SYG of the Presidency Leon in advance of the European Parliament (EP) vote on the Terrorist Finance Tracking Program (TFTP). Post views its Spanish interlocutors as committed allies on these issues, although the Spanish constantly remind us that data privacy must be respected in enhanced cooperation. Post also has helped secure ample media coverage for the USG's position on such matters during those VIP visits. As requested by Ref A, this cable highlights Post's efforts. Embassy POC is POLOFF Hugh Clifton, Tel. (34) 91-587-2294, fax (34) 91-587-2391. END SUMMARY AND COMMENT.

//CODEL Cardin Engages On Next Steps re TFTP//

[1](#)2. (C) CODEL Cardin (see Septel) on February 16 discussed the importance of information-sharing and data protection with Interior Minister Rubalcaba, who in response outlined the next steps that he recommends taking following the EP's rejection of the interim TFTP agreement on February 11. Rubalcaba told the CODEL that the EP's "No" vote should be interpreted in the context of growing complacency on the part of Europe because it has been some time since Europe suffered a high-profile terrorist attack. Nevertheless, he said that he is in favor of taking a risk by trying to move forward on the issue. Rubalcaba made the case to the CODEL that he could not argue before the EP - as he did in last-minute

lobbying on February 10 for the TFTP's passage - that the agreement was important for the shared security of member states and then wait another year to try something new after it was voted down. He said that things quickly need to be attempted in a different way and that he will meet Cecilia Malmstrom, the new Home Affairs Commissioner, during the week of February 22 to present this general strategy. He acknowledged, however, that it will likely remain "very problematic" to secure the EP's agreement. The key, he argued, would be to secure the support, or at least the abstention, of the German MEPs.

//DHS Secretary Addresses JHA Ministers at Toledo JHA Informal Ministerial//

13. (C) As reported in Ref B, DHS Secretary Napolitano on January 21 delivered a speech on aviation security to the EU JHA informal ministerial, which responded with a broad consensus on the international nature of need for improved aviation security and US-EU cooperation. In her address to the plenary, Secretary Napolitano emphasized that terrorism is a global threat that requires a multinational response and that access to one airport can endanger the entire international airport system. The Secretary reviewed the facts of the December 25 Detroit case, shared lessons learned from the subsequent Presidential Review, and outlined four areas of focus: 1) information collection and analysis; 2) information sharing and collaboration in passenger vetting; 3) international security standards, including coordination of international assistance to help all countries achieve those standards; and 4) development and deployment of next generation aviation security technologies. She also had bilateral meetings with Rubalcaba and Justice Minister Caamano. Days before the Secretary's arrival, Ambassador

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Solomont held a meeting with Rubalcaba in which the Ambassador raised information-sharing and data-protection to highlight the importance the USG places on the issue. (Ref C).

14. (C) Virtually all of the key senior-level players within the Spanish MOJ, MFA and MOI heard Sec. Napolitano's January 21 plenary address. The following officials act as their respective ministries' point person on enhanced information-sharing and data protection: Arturo Avello, the MOI's DG (A/S-level) for International Affairs at the MOI, Aurora Mejia, the MOJ's DG for International Judicial Cooperation, and Fernando Alvargonzalez, the MFA's Ambassador-at-Large for JHA Issues. Mejia attended the Secretary's bilateral meeting with Caamano later that same day. Another key Spanish contact who attended the plenary is Juan Fernando Lopez Aguilar, Chair of the EP's Civil Liberties, Justice and Home Affairs Committee. Looking ahead, both Avello and Alvargonzalez are on the Steering Committee to implement the U.S.-EU declaration on aviation security that came out of the informal ministerial in Toledo, with an eye toward creating deliverables for the U.S.-EU Troika Ministerial during April 8-9. (Ref B)

//State, Justice and DHS Make U.S. Case at U.S.-EU JHA SOM//

15. (C) Deputy Assistant Attorney General Bruce Swartz and INL DAS Elizabeth Verville, who co-led the U.S. delegation to the U.S.-EU JHA senior official meeting (SOM) held in Madrid during January 11-12, drove home the USG's message regarding information-sharing and data protection. On behalf of Spain's role as rotating EU President, Mejia, Avello, and Alvargonzalez co-chaired the meeting and echoed the U.S. delegation's stated interest in receiving a negotiating mandate from the European Commission "as soon as possible" - optimally, before the April 8-9 Troika Ministerial - to reach an over-arching, binding agreement on U.S.-EU information-sharing and data protection.

//Secretary Napolitano at Data Protection Conference//

16. (C) As noted in Ref D, Sec. Napolitano on November 4 spoke with Rubalcaba in Madrid about information-sharing and data protection and they both addressed the 31st annual International Conference on Data Protection and Privacy Commissioners (IDPC), hosted by Artemi Rallo, Director of the Spanish Data Protection Agency. In a private meeting with Rubalcaba, the Secretary acknowledged that increased data-sharing between the U.S. and EU will be a hard sell, but they agreed that public security and personal privacy are not mutually exclusive concepts and confirmed their commitment to work toward a bilateral data-sharing agreement which could then be crafted in a broader context for a US-EU agreement. At the conference, the Secretary cited a success story in which information-sharing promotes public safety. Also during this visit, the Secretary also had an informal conversation at the conference with Lopez Aguilar in which she disagreed with his assertion that the U.S. Privacy Act of 1974 does not allow non-U.S. citizens to bring their concerns to U.S. courts. She cited this example as a misconception regarding U.S. privacy standards that the USG will have to dispel. Ref D also discusses domestic political concerns in Spain regarding data privacy.

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